

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

953 WRIT PETITION NO. 3085 OF 2017

GORAKH DIGAMBAR MUNDALIK
VERSUS
M/S SAI KRUPA CONSTRUCTION AND DEVELOPERS FOR PARTNERSHIP FIRM
PARTNERS AND DEVELOPERS

...
Advocate for Petitioner : Mr. M.A. Shaikh Jahagirdar

...
CORAM : S. B. SHUKRE, J.
Date: March 07, 2017

...
PER COURT :-

1 The suit was filed only for injunction simplicitor, in which the plaintiff moved application, seeking appointment of Court Commissioner for making local investigation and to submit report as to whether or not the requisite margin has been left, while making the construction. The said prayer is nothing but an attempt made to collect evidence, which is not permissible in law. Therefore, one of the impugned orders dated 22.2.2012 cannot be said to be arbitrary or patently illegal.

2 The other impugned order dated 22.2.2017 passed below Exh.28 also cannot be said as patently illegal or arbitrary, for the simple reason that, the exparte injunction order was in operation and therefore, it ought to have been argued by the parties and an attempt to seek adjournment on the ground that the order rejecting application for appointment of Court Commissioner was sought to be assailed by the plaintiff, would not have been enough for grant of adjournment.

3 In view of above, I find no merit in this petition. Petition stands dismissed with costs.

(S. B. SHUKRE, J.)